REMARKS

Applicants' undersigned Attorney would like to thank Examiner Rhee for the courtesies extended during the telephone interview of September 23, 2003 (hereinafter referred to as "the telephone interview"). During this telephone interview, the rejections in the Office Action mailed July 28, 2003 (hereinafter referred to as "the Office Action") were discussed. The issues discussed during the telephone interview are noted below in the context of the remarks with respect to the specific rejections.

In the Office Action, claims 1 – 4, 6 – 11 and 18 – 34 were rejected under 35 U.S.C. §112, first paragraph. The Examiner alleges that the upper limitation of the thickness of the label stock, less than 0.7 inch (0.1778 cm) is new matter. It is respectfully noted that Applicants claim 0.07 inch, not 0.7 inch as the Examiner states. In addition, it is noted that independent claims 27 and 34 do not even include the upper limitation of the thickness of the label stock of less than 0.07 inch. Claims 28 – 30 depend on claim 27. Thus, this rejection is simply improper with respect to claims 27 – 30 and 34. Nevertheless, Applicants' undersigned attorney acknowledged during the telephone interview, that this rejection with respect to the rest of the claims was proper, and noted that she has amended claims 1, 11 and 31 to recite that the upper limit of the thickness of the label stock is 0.04 inch. Antecedent basis for this amendment can be found on page 13, line 23. Thus, withdrawal of this rejection is respectfully requested.

Claims 1 – 3, 9, 11, 27, 28, 31, 32 and 33 were rejected under 35 U.S.C. §102(b) as being anticipated by Frankosky (U.S. Patent No. 5,527,600). The Examiner has apparently ignored the limitation of the upper limit on the thickness of the label stock in this rejection. The Examiner is now requested to consider the upper limit of 0.04 inch as now recited in claims 1, 11 and 31. As noted in Amendment A, filed on October 7, 2002, the batt of Frankosky is at least 0.07 inch, if not greater. The batt of Frankosky is much thicker than Applicants' claimed label stock, now with an upper limit of 0.04 inch. Examiner Rhee acknowledged that Frankosky failed to teach a label stock having a thickness of less than 0.04 inch, and that the rejection of claims 1 – 3, 9, 11, 27, 28, 31, 32 and 33 under 35 U.S.C. §102(b) as being anticipated by Frankosky is improper and should be withdrawn. However, she noted that she would need to do additional searching with this new upper limit in mind.

In addition, it is noted that claim 27 recites that the label of the present invention is sealed at its upper, lower and side edges, and claims 31 and 34 recite that the label stock is sealed at its upper and lower edges. In the rejection of these claims as being anticipated by Frankosky, the Examiner states on page 3 of the Office Action that Frankosky discloses that the label stock is sealed at its upper, lower and side edges, citing col. 2, lines 27 and 28. However, as already pointed out in Amendment B, filed on May 12, 2003, this disclosure says that the upper and lower *faces* of the batt are sealed. There is no disclosure in Frankosky that the *edges* of the batt are sealed. This point was discussed during the telephone interview, in which Applicants' undersigned Attorney analogized the label stock or label of the present invention to a pillow case having a pillow inside. A pillow case has two longer edges, which are sewn together, a shorter edge, which is sewn together, and an open shorter edge opposite the sewn shorter edge which allows the pillow to be inserted into the pillow case. The two longer edges of the pillow case are analogous to Applicants' sealed top and bottom edges. The Examiner acknowledged that she understood the analogy and would consider the prior art with this understanding of what is meant by the recitation that the top and bottom edges of the label stock are sealed. However, she also acknowledged that she would need to do additional searching with this new understanding of what is meant by top and bottom edges in mind.

Nevertheless, during the telephone interview, Applicants' undersigned Attorney acknowledged that the claims could be amended to better define the invention in this regard. Specifically, by this Amendment, Applicants' undersigned Attorney has amended claim 27, which claims a label, to recite that the thermal insulating layer is laminated between two sheets of face material, and the two sheets of face material are sealed together along the top, bottom and side edges of the label. Claim 31 has been similarly amended for the claimed label stock. Claim 34 has been amended to recite that first and second sheets of biaxially oriented polyester film are sealed together along the top and bottom edges of the label stock.

It is respectfully submitted that the recitations that the sheets of face material or the sheets of biaxially oriented polyester film, respectively, are sealed together along the top and bottom edges, or top, bottom and side edges, is not new matter. In Amendment B, Applicants amended the specification to recite that the edges 132 *as originally disclosed*, include a top edge 132a and a bottom edge 132b. The top and bottom edges are shown in Figs. 3 – 6 *as originally filed*, although they were not

specifically labeled. In addition, it is noted that the specification on page 10, lines 19 – 22, *as originally filed*, disclosed that the label stock of the present invention may be sealed, such as with a hot knife, at its edges so that fluid cannot penetrate the edges of the label stock. Applicants respectfully submit that in order for fluid not to penetrate the edges of the label stock, the sheets of face material must be sealed together to form this seal. Applicants propose to amend the specification on page 10 at line 22, and on page 13, at lines 32 and 34, respectively, in order to highlight this feature of the present invention, which was disclosed inherently at the time of filing. Entry of these amendments to the specification and claims is requested.

In the Response to Arguments on the bottom of page 9 through the top of page 10 of the Office Action of July 28, 2003, the Examiner states that Frankosky discloses that the upper and lower faces are sealed for the purpose of low levels of fiber leakage through the shell fabrics, citing col. 1, line 56, and concludes that there it is *inherent* that the top and bottom edges are sealed in order to prevent fiber leakage through the shell fabrics. It is respectfully submitted that all of the disclosures in Frankosky are directed to sealing the *faces* of the batt. For example, as stated on column 3, lines 34 – 37, the cured resin is spread to ensure its complete and even distribution among the fibers in the *faces* of the batt to prevent fiber leakage through such surfaces of the batt. The Examiner has pointed to nothing in Frankosky to suggest that such sealing would inherently seal the top and bottom edges.

For all of the above reasons, it is respectfully submitted that the rejection of independent claims 1, 11, 27 and 31 as being anticipated by Frankosky is no longer appropriate. Allowance of these independent claims, and the claims that depend thereon, is requested.

Claims 1 – 4, 6, 8, 9, 11, 18, 19, 21, 23, 24, 27 and 30 – 34 were rejected under 35 U.S.C. §102(e) as being anticipated by Barre (U.S. Patent No. 6,286,872). In particular, the Examiner states on page 5 of the Office Action that since Barre discloses the thermal insulating layer comprising polyester, polyethylene and polypropylene desired by the applicant, also the thickness of the label stock is greater than 0.0075 inch and less than 0.07, it is inherent that the thermal insulating layer has a thermal resistance in the range of 0.05 to 0.5 CLO. It is respectfully submitted that this conclusion is simply incorrect for two reasons. First, the Examiner reads the materials of polyester, polyethylene and polypropylene into the independent claims, even though these materials are not specifically claimed therein, and assumes that all

polyester, polyethylene and polypropylene would inherently have Applicants' claimed thermal resistance values. As discussed during the telephone interview, the Examiner cannot make this assumption. Thermal resistance is a function of the type of material used, as well as the thickness of the material. Applicants' claims only cover those materials which have a thermal resistance in the range of 0.05 to 0.5 CLO (0.0077 to 0.077 m^2.K/W).

Second, the Examiner has made an incorrect assumption about the thickness that should be used to calculate the thermal resistance. In the Response to Arguments, on page 9 of the Office Action, the Examiner explains her rationale for this conclusion, stating that:

> *Applicant calculated the thermal resistance of Barre's insulating layer at the thickness of 20 microns and 500 microns, however fail to realize that applicant claimed that the label stock as a whole has a thickness greater than 0.0075 inch and less than 0.07 inch therefore did not calculate the thermal resistance of Barre's insulating layer and face material as a whole with the maximum thickness of 700 microns (0.0275 inches)when adding the maximum thickness of the face material, 200 microns (col. 2, line 19) and the maximum thickness of the insulating material 500 microns (col. 2 line 38).*

It is respectfully submitted that Applicants do not have to calculate the thermal resistance of Barre's thermal insulating layer *and face material as a whole*. The Examiner fails to realize that all of Applicants' independent claims, claims 1, 11, 27, 31 and 34, recite a *thermal insulating layer* having a thermal resistance in the range of 0.05 to 0.5 CLO (0.0077 to 0.077 m^2.K/W). Nowhere does Applicant recite that the thermal insulating layer and face material *as a whole* have a thermal resistance in the range of 0.05 to 0.5 CLO. The Examiner has quite simply applied the wrong analysis to Applicants' claim language. This point was explained to Examiner Rhee during the telephone interview, and she agreed that the it would not be proper to calculate thermal resistance based on the thickness of the label stock as a whole. Examiner Rhee acknowledged that reconsideration of the calculations attached to Amendment B, and summarized in the Tables in Amendment B, is in order.

In the rejection of the claims as being anticipated by Barre, the Examiner states on page 4 of the Office Action that the label stock is sealed at its edges,

pointing to Fig. 1, numbers 9 and 5. In Fig. 1 of Barre, 9 represents an adhesive composition which is put on the printable substrate 2. Reference number 5 is a side of a peel-off sheet 4 which is in contact with the adhesive composition 9. In the Response to Arguments on page 9 of the Office Action, the Examiner explains that side 3 in Fig. 1 is covered with adhesive composition and that label 1 adheres to the package, and concludes that the top, bottom, sides and center of the label are adhered to the package. Applicants agree that the bottom side 3 of the label of Barre is adhered to a package, when the label is put on the package. However, this is completely different than saying that the edges of the label or the label stock are *sealed*. Examiner Rhee and Applicants' undersigned Attorney discussed the Examiner's interpretation that the bottom side 3 of the label of Barre is adhered to the package, and thus this is a sealed edge. In order to further clarify this distinction, and in light of the discussion of this point during the telephone interview, Applicants have amended claims 27, 31 and 34, as noted above. In view of these amendments, it is respectfully submitted that the rejection of independent claims 1, 11, 27, 31 and 34 as being anticipated by Barre is not applicable and should be withdrawn for all of the reasons as discussed above. Allowance of these claims, as well as the claims that depend thereon, is requested.

For all of the above reasons, allowance of claims 1 – 4, 6 – 11, 18 – 32 and 34 is earnestly solicited.

Should any extension of time be necessary, the Examiner is authorized to take such extension and charge the fee for such extension to Deposit Account No. 04-1928 (E.I. du Pont de Nemours and Company).

Respectfully submitted,

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